

CRIMINAL LAW: Section 564.630, RSMo Supp. 1967, requires
FIREARMS: that a retail dealer in firearms purchas-
CONCEALED WEAPONS: ing a concealable firearm from another
WEAPONS: such retail dealer or from a person who is
neither a wholesaler nor a manufacturer
must obtain and deliver to the seller a permit authorizing such
retail dealer to purchase the concealable firearm.

OPINION NO. 538

December 23, 1969

Honorable Joseph P. Teasdale
Prosecuting Attorney
Courthouse
Independence, Missouri 64050



Dear Mr. Teasdale:

This opinion is in response to your request in which you ask whether concealed weapon permits are required in a sale of a concealable firearm by a person who is not a manufacturer, wholesaler, or retail dealer to a retail dealer who intends to re-sell it, and whether such a permit is required in a sale by a retail dealer of a concealable firearm to another retail dealer who intends to re-sell it.

In this opinion, we will confine ourselves to a discussion of the sale of such property although it must be recognized that the requirements of the statute extend to transactions other than merely the sale.

Section 564.630, RSMo Supp. 1967, provides in part:

"1. No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purpose of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving the weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering the weapon, within thirty days after the issuance thereof, a permit authorizing the person to acquire the weapon."

The language of the above section is clear in that the section excludes only such transactions between a manufacturer or wholesaler

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to or from a wholesale or retail dealer for the purposes of commerce. There is no exclusion for retail dealers who sell such firearms to other retail dealers. Likewise, the statute does not exclude sales by individuals to retail dealers even though such sale is for the purpose of resale by the retail dealer purchaser.

Whether or not a person is a retail dealer or a wholesale dealer is a question of fact and must be determined by the individual circumstances in each case. The terms "retail", "wholesale" and related terms have acquired certain and definite meanings. 77 C.J.S., Sales 1, p. 580, et seq. Fountain et al v. St. Joseph Water Company, 352 Mo. 817, 180 S.W.2d 28 (1944).

We are not unmindful of the scope of federal legislation dealing with the licensing or regulation of firearms and dealers in firearms. The federal statutes do not affect the construction of the Missouri statutes although the question of whether or not a person is licensed under the federal law may be one matter to be considered in determining whether or not he is a wholesale or retail dealer as the terms are used under the Missouri statutes.

CONCLUSION

It is the opinion of this office that Section 564.630, RSMo Supp. 1967, requires that a retail dealer in firearms purchasing a concealable firearm from another such retail dealer or from a person who is neither a wholesaler nor a manufacturer must obtain and deliver to the seller a permit authorizing such retail dealer to purchase the concealable firearm.

This opinion, which I hereby approve, was prepared by my assistant John C. Klaffenbach.

Yours very truly,



JOHN C. DANFORTH
Attorney General